

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TRAVELERS CASUALTY AND SURETY
COMPANY as Administrator for RELIANCE
INSURANCE COMPANY,

Plaintiff,

vs.

DORMITORY AUTHORITY - STATE OF NEW
YORK, TDX CONSTRUCTION CORP. and KOHN
PEDERSEN FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF
NEW YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

Case No. 07-CV-6915 (DLC)

**CERTIFICATION OF
ELI J. ROGERS
IN OPPOSITION TO
KOHN PEDERSEN FOX
ASSOCIATES, P.C.'S
MOTION TO DISMISS**

ELI J. ROGERS, ESQ., of full age and under penalty of perjury, pursuant to 28 U.S.C.
§ 1746 and Local Civil Rule 1.10, certifies as follows:

1. I am associated with the law firm of Dreifuss Bonacci & Parker, LLP, attorneys
for Plaintiff, Travelers Casualty and Surety Company, as Administrator for Reliance Insurance
Company (hereinafter "Travelers") in the within matter, and as such am fully familiar with the
facts set forth herein. I submit this Certification in connection with Travelers' opposition to the
motion to dismiss pursuant to FRCP 12(b)(6), brought by Defendant, Kohn Pedersen Fox
Associates, P.C. ("KPF") in the within action.

2. Upon information and belief, a “Pre-Bid Conference” for Contract No. 15 was held on February 17, 1998. A true and correct copy of the meeting minutes for the Contract No.15 Pre-Bid Conference is attached hereto as **Exhibit A**.

3. The minutes to the Contract No.15 Pre-Bid Conference are printed on Kohn Pedersen Fox Associates, P.C. (“KPF”) letterhead and recite that they were prepared by Lloyd A. Sigal of KPF. (See, Exhibit A, pp. “1 of 2” and “Attendance Sign-In Log”, signed by “Lloyd Sigal KPF” among others.)

4. The minutes indicate that the Contract No.15 Pre-Bid Conference was attended by, inter alia, Robert Hartwig and Lloyd Sigal of KPF, and by representatives of Trataros Construction, Inc. (“Trataros”). (Id., “Attendance Sign-In Log”).

5. Upon information and belief, on or about February 23, 1998, KPF distributed to a group of known potential bidders, including Trataros, “Addendum No. 1” to Contract No. 15. Among other things, this addendum added 8 new sections of technical specifications, and added 30 new architectural sketches to Contract No. 15. A true and correct copy of Addendum No. 1 to Contract No. 15 (exclusive of the architectural drawings referenced at item 8.2) is attached hereto as **Exhibit B**.

6. Upon information and belief, on or about March 3, 1998, on KPF distributed to a group of known potential bidders, including Trataros, “Addendum No. 2” to Contract No. 15. Among other things, this addendum added 58 architectural sketches to Contract No. 15. A true and correct copy of Addendum No. 2 to Contract No. 15 (exclusive of the architectural drawings referenced at item 5.1) is attached hereto as **Exhibit C**.

7. Upon information and belief, on or about March 11, 1998, on KPF distributed to a group of known potential bidders, including Trataros, “Addendum No. 3” to Contract No. 15.

Among other things, this addendum added 39 architectural sketches to Contract No. 15. A true and correct copy of Addendum No. 3 to Contract No. 15 is attached hereto as **Exhibit D**.

8. Upon information and belief, a “Pre-Bid Conference” for Contract No. 16 was held on May 21, 1998. A true and correct copy of the meeting minutes for the Contract No.16 Pre-Bid Conference is attached hereto as **Exhibit E**.

9. The minutes to the Contract No.16 Pre-Bid Conference are printed on Kohn Pedersen Fox Associates, P.C. (“KPF”) letterhead and recite that they were prepared by Lloyd A. Sigal of KPF. (See, Exhibit E, pp. “1 of 2” and “Attendance Sign-In Log”, signed by “Lloyd Sigal KPF” among others.)

10. The minutes indicate that the Contract No.16 Pre-Bid Conference was attended by, inter alia, Robert Hartwig and Lloyd Sigal of KPF, and by representatives of Trataros Construction, Inc. (“Trataros”). (*Id.*, “Attendance Sign-In Log”.)

11. Upon information and belief, on or about May 29, 1998, KPF distributed to a group of known potential bidders, including Trataros, “Addendum No. 1” to Contract No. 16. Among other things, this addendum added three (3) new sections of technical specifications, and **three hundred and two (302)** new architectural sketches to Contract No. 16. A true and correct copy of Addendum No. 1 to Contract No. 16 (exclusive of the architectural drawings referenced at item 7.1) is attached hereto as **Exhibit F**.

12. Upon information and belief, on or about June 8, 1998, KPF distributed to a group of known potential bidders, including Trataros, “Addendum No. 2” to Contract No. 16. Among other things, this addendum added **two hundred and fifty-two (252)** architectural sketches to Contract No. 16. A true and correct copy of Addendum No.2 to Contract No. 16 (exclusive of the architectural drawings referenced at item 4.1) is attached hereto as **Exhibit G**.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: Florham Park, New Jersey
October 16, 2007

/S/
Eli J. Rogers, Esq. (ER-6564)